MEMORANDUM OF LAW

LEGAL, HISTORICAL, AND CONSTITUTIONAL ANALYSIS OF THE SYSTEMIC BASIS FOR CANNABIS PROHIBITION AND THE DIMINUTION OF INDIVIDUAL RIGHTS IN THE UNITED STATES

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SECTION I. EXECUTIVE SUMMARY

This memorandum presents an exhaustive legal, historical, and constitutional argument asserting that cannabis prohibition laws in the United States-at both federal and state levels-violate fundamental individual rights protected under the U.S. Constitution. These laws, rooted in unscientific claims, economic opportunism, racial bias, and unchecked administrative power, have evolved into a systemic framework that punishes peaceful conduct while enriching institutions that profit from enforcement.

This memorandum draws on statutory codification (e.g., 21 U.S.C. §§801 et seq.), key executive actions (e.g., Executive Orders 6102, 10450, 12170), and pivotal Supreme Court decisions (e.g., Wickard v. Filburn, Gonzales v. Raich) to trace how the repurposing of war powers, commerce clause interpretations, and emergency declarations facilitated a shift from personal liberty toward bureaucratic control. These shifts did not occur in a vacuum-they were strategically executed by agencies and policymakers whose incentives increasingly detached from public health or justice.

Key conclusions include:

- Cannabis prohibition is constitutionally unsound when judged against original intent frameworks of the Ninth and Tenth Amendments, as well as due process and equal protection doctrines.
- Federal agencies, under both Democratic and Republican administrations, have deliberately ignored scientific evidence in order to preserve Schedule I classification and the punitive legal infrastructure tied to it.
- State laws like Georgia's Low THC Oil Act (O.C.G.A. § 16-12-190 et seq.) compound the problem by creating dual systems of criminality and selective licensing, violating principles of legal clarity and public understanding.
- Redefinitions of legal language-e.g., the shifting meaning of "marijuana," "controlled substance," "drug," and "commerce"-have enabled otherwise unconstitutional enforcement.

This document stands not only as a challenge to these policies, but as a record of one citizen's good faith attempt to assert lawful standing, present evidence, and preserve constitutional protections in a climate of hostility and denial.

SECTION II. HISTORICAL LEGISLATIVE FRAMEWORK

A. The Marihuana Tax Act of 1937

Enacted through congressional manipulation and sensationalist propaganda, the Marihuana Tax Act of 1937 was the first comprehensive federal attempt to criminalize cannabis through the use of tax and registration codes. Championed by Harry Anslinger and the Federal Bureau of Narcotics, the law effectively made cannabis illegal by requiring registration and taxation for use and possession, while simultaneously ensuring no accessible legal pathway to compliance. Racially coded language and fear-based anecdotes, not science, were presented to Congress. Notably, the American Medical Association opposed the bill, citing lack of scientific rationale and due process.

B. The Boggs Act (1951) and Narcotic Control Act (1956)

These laws introduced mandatory sentencing for drug offenses, including cannabis. The Narcotic Control Act reinforced the criminal classification of cannabis with penalties that paralleled heroin and opium. With zero distinction for pharmacological differences, cannabis was further cemented into a legislative framework of racialized criminality and systemic incarceration.

C. Controlled Substances Act of 1970

Passed as part of Nixon's war on drugs, the CSA created a five-tiered drug scheduling system. Cannabis was placed in Schedule I, designated as having no medical use and a high potential for abuse-despite prior federal studies (e.g., LaGuardia Report, 1944) suggesting otherwise. Nixon's own Shafer Commission advised decriminalization in 1972. Nixon rejected the report. Cannabis remained in Schedule I, not by science but by executive will.

D. Anti-Drug Abuse Acts of 1986 and 1988

These laws expanded penalties and introduced civil asset forfeiture and surveillance expansions. They institutionalized profit-driven policing, aligning municipal budgets with forfeiture-driven arrests and enforcement. Cannabis was frequently targeted as low-risk, high-volume justification for these tactics.

This legislative history reveals a pattern: cannabis prohibition is not founded in evidence-based governance, but in economic capture, racialized control, and bureaucratic expansion.

SECTION III. EXECUTIVE AND ADMINISTRATIVE ACTIONS AND ORDERS

A. Executive Order 6102 (1933)

President Franklin D. Roosevelt's EO 6102 mandated the surrender of all privately held gold to the U.S. Treasury. This marked a pivotal moment in expanding federal emergency power over private assets. Later, this same legal reasoning was applied to civil asset forfeiture in drug cases-where individuals' property could be seized without criminal conviction.

B. Executive Order 10450 (1953)

President Eisenhower's EO expanded background checks and character investigations for federal employees. Cannabis use was grouped with disloyalty, moral perversion, and subversive behavior. This executive act conflated drug use with threats to national security, further embedding cannabis criminality in state doctrine.

C. Executive Order 12170 (1979)

Though ostensibly targeting the Iranian regime, EO 12170 declared a national emergency that persists in modified forms to this day. Its structural format and reliance on continuous emergency declarations served as a model for federal drug enforcement, granting executive agencies expanded leeway under the International Emergency Economic Powers Act (IEEPA).

D. The DEA and 21 U.S.C. §811

Created in 1973, the DEA assumed authority to schedule substances administratively. Under 21 U.S.C. §811, it could designate drugs to Schedule I without congressional review. The agency ignored both public comment and administrative procedure when repeatedly rejecting petitions to reschedule cannabis.

E. ONDCP and Institutionalized Bias

The Office of National Drug Control Policy, created in 1988, was legally mandated to oppose any attempt to legalize or decriminalize cannabis. This codified anti-cannabis ideology at the highest levels of executive policy. The agency routinely issued press releases and reports lacking peer-reviewed data but still shaped public discourse and legislative behavior.

F. Civil Asset Forfeiture and Equitable Sharing

With passage of the Comprehensive Crime Control Act of 1984 and later expansions, agencies could seize assets from citizens suspected of drug involvement-often cannabis-related-without securing criminal convictions. The Equitable Sharing Program allowed state and local law enforcement to retain up to 80% of the proceeds, creating a perverse financial incentive structure that rewards cannabis criminalization.

These executive and administrative actions demonstrate that prohibition has been preserved not through legislative necessity or constitutional alignment, but through executive exploitation of emergency, fiscal, and propagandistic mechanisms.

SECTION IV. THE REDEFINITION OF LANGUAGE AS A TOOL FOR RIGHTS SUPPRESSION

A. Manipulating Definitions for Legislative Evasion

The U.S. government has repeatedly altered legal definitions to justify prohibitive policy. Terms like "drug," "narcotic," and "marijuana" have been redefined in statutes to encompass benign plant matter while simultaneously excluding dangerous pharmaceuticals with greater abuse potential. The term "marijuana" itself was popularized in law specifically to exploit racial and cultural bias, avoiding the more scientific and benign term "cannabis."

B. The Controlled Substances Act and Functional Vagueness

The CSA permits the Attorney General and DEA to classify substances based on "potential for abuse" and "accepted medical use," without establishing clear scientific thresholds for these determinations. This allows broad administrative discretion, leading to contradictory and unreviewable outcomes. For example, cannabis is Schedule I while synthetic THC analogues are Schedule III.

C. Legal Contradictions in Federal and State Law

Federal statutes such as the CSA conflict directly with state-level legalization frameworks. In Georgia, O.C.G.A. § 16-12-190 criminalizes possession of cannabis-derived products while simultaneously allowing state-licensed dispensaries to sell Low THC Oil-creating legal instability that punishes citizens for navigating an incoherent system.

D. The Use of Commerce as a Regulatory Catch-All

The federal government's increasing reliance on the Commerce Clause to justify prohibitory laws represents a fundamental departure from its original intent. Under Wickard v. Filburn (1942), even personal cultivation for private use was deemed "interstate commerce." This precedent was further entrenched in Gonzales v. Raich (2005), wherein medical cannabis grown for personal use under California law was deemed federally illegal because of its potential to affect interstate supply.

E. Rights Reduced to Privileges Through Semantic Engineering

By redefining foundational terms, legislators have effectively transmuted unalienable rights into conditional privileges. The right to cultivate one's own medicine, engage in self-sustaining commerce, or decline government-licensed therapies has been obfuscated through linguistic ambiguity embedded in administrative

codes.

These manipulations do not merely reflect poor drafting-they reflect a deliberate strategy of structural gaslighting, in which legal meaning becomes so slippery that ordinary citizens are criminalized for failing to interpret statutory illusion.

SECTION V. JUDICIAL CONTRIBUTIONS: THE SUPREME COURT AND THE EROSION OF PRIVATE RIGHTS

A. Wickard v. Filburn (1942)

This case expanded the federal government's power under the Commerce Clause by holding that wheat grown by a farmer for personal use could be regulated as "interstate commerce." This precedent laid the foundation for future cases such as Gonzales v. Raich and underpins the rationale for federal cannabis prohibition, even when use is entirely intrastate.

B. Korematsu v. United States (1944)

Though ultimately discredited, this decision affirmed the government's authority to violate constitutional rights during national emergencies. The logic of Korematsu-that individual rights can be suspended under executive necessity-reappears in modern drug enforcement policies rooted in perpetual emergency declarations.

C. Gonzales v. Raich (2005)

This decision reaffirmed Wickard's principle, asserting that Congress can prohibit the cultivation and use of cannabis under the CSA, even when grown legally under state law. This marked a significant blow to federalism and the principle of dual sovereignty, effectively rendering state medical cannabis laws subordinate to federal mandate.

D. Hudson v. Michigan (2006) and Erosion of the Exclusionary Rule

The Court's erosion of the exclusionary rule in drug-related searches created additional legal insulation for enforcement errors, making it increasingly difficult to challenge rights violations stemming from cannabis raids and seizures.

E. Absolute Immunity and Qualified Immunity

The doctrines of absolute and qualified immunity, expanded through cases such as Harlow v. Fitzgerald (1982) and more recent decisions, shield prosecutors and police from accountability-even when their actions violate clearly established rights. Cannabis defendants, patients, and property owners have been denied redress under these doctrines despite evidence of misconduct.

These rulings represent a cumulative drift away from individual liberty and toward institutional dominance,

particularly in contexts framed as moral or emergency-based. The judiciary has not merely deferred to legislative intent-it has endorsed and expanded constitutional exceptions under the guise of national interest.